

JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney

BRIAN J. STRETCH (CSBN 163973)  
Chief, Criminal Division

DENISE MARIE BARTON (MABN 634052)  
C. DAVID HALL (CSBN 66081)

## Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7168  
FAX: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) No. CR 07-0454 PJH  
Plaintiff, ) UNITED STATES' ADDITIONAL  
v. ) RESPONSE TO DEFENDANT'S MOTION  
SHANNON BLAYLOCK, ) TO EXCLUDE CO-CONSPIRATOR'S  
Defendant. ) STATEMENTS  
                            ) Trial Date: September 15, 2008  
                            ) Time: 8:30 a.m.

The defendant is charged in a two-count indictment with conspiracy to sex trafficking with a 17-year old female, V.S. in violation of Title 18, United States Code, Section 371, and the substantive offense of sex trafficking with a minor, in violation of Title 18, United States Code, Section 1591. The conspiracy is alleged in the indictment to have existed from February, 2007 to March 22, 2007

## Witnesses and Anticipated Testimony

The evidence will show that there was a conspiracy between Tawakoni Seaton (Seaton) to act as a prostitute for and assistant to defendant acting as pimp for her and other prostitutes, some of whom were less than 18 years of age since at least August of 2005. In 2005 the defendant

1 recruited to prostitute for him a female, Tuesday, without regard to the possibility she was a  
 2 minor. In 2006, the defendant recruited to prostitute for him another female, Pooh, with full  
 3 knowledge she was under 18. Again in February of 2007, the defendant recruited a 17-year old  
 4 female, V.S., with full knowledge that she was a minor to act as a prostitute. V.S., at age 17,  
 5 acted as a prostitute with the aid and support of both Seaton and the defendant in February and  
 6 March of 2007 in Atlantic City, New Jersey, Louisiana, and the San Francisco area. The  
 7 defendant arranged for V.S.'s travel between Atlantic City and San Francisco, as well as within  
 8 this area, and the hotels she used in the San Francisco area to engage in prostitution.

9       Coconspirator Statements Against Codefendants

10      Evidence will be introduced through the testimony of various witnesses who participated  
  11 in the sex trafficking of a minor conspiracy, in particular V.S. and Seaton. V.S. had  
  12 conversations with Seaton that she was under 18. V.S. and Seaton had conversations with the  
  13 defendant that V.S. was under 18, and the defendant said she was still going to work first as a  
  14 receptionist and then as a prostitute. Seaton additionally had conversations at the time the  
  15 defendant recruited them that Pooh and Tuesday were minors and the defendant told Seaton they  
  16 were still going to work as prostitutes. Additionally the defendant made statements to and heard  
  17 by Seaton that he would use force, give gifts and travel to encourage all of the prostitutes  
  18 working for him, including minors to recruit or keep minor and adult women to work as  
  19 prostitutes and share their earnings with the defendant, acting as their pimp. All these statements  
  20 in detail have now all been discovered to the defendant. The statements are all admissible under  
  21 the co-conspirator exception to the hearsay rule embodied in Rule 801(d)(2)(E) of the Federal  
  22 Rules of Evidence.

23      In essence, this rule provides that evidence of the acts and conspiracy statements of one  
  24 coconspirator during and in furtherance of the conspiracy are admissible against other  
  25 coconspirators whether or not they were present at the time of the acts or statements. See Salazar  
  26 v. United States, 405 F.2d 74 (9th Cir. 1968); Carbo v. United States, 314 F.2d 718, 735 (9th Cir.  
  27 1963), cert. denied, 377 U.S. 953 (1964).

28      The hearsay declaration of a coconspirator may be received into evidence upon a showing

1 that the declaration was made in furtherance of the conspiracy, that it was made during the  
 2 pendency of the conspiracy, and that there is proof sufficient to make out a *prima facie* case of  
 3 the existence of the conspiracy and of the defendant's participation in it. United States v.  
 4 Bourjaily, 483 U.S. 171, 174 (1987). The substantiality of independent evidence establishing a  
 5 defendant's complicity in the conspiracy need only be slight if the evidence of the conspiracy is  
 6 clearly established. United States v. Dixon, 562 F.2d 1138, 1142 (9th Cir. 1977).

7 Once this is established, all involved defendants become liable ". . . for the acts of [their]  
 8 co-conspirators in furtherance of the conspiracy . . . even if [they are] unaware of the existence of  
 9 the acts or actors." United States v. Oropeza, 564 F.2d 316, 322 (9th Cir. 1977); Testa, 548 F.2d  
 10 at 855.

11 Here, the government will show that the defendant was a member of a sex trafficking  
 12 conspiracy which used minor women, and in particular used V.S. as a prostitute in February and  
 13 March of 2007. Witness Seaton (who has plead guilty to participation in the conspiracy) will  
 14 testify about the existence of this conspiracy and the defendant's membership in this conspiracy  
 15 as pimp. Further, V.S. will testify as to statements made by her and from the defendant that she  
 16 wanted to and did work as a prostitute for the defendant and that she was a minor.

17       Admissibility of Co-Conspirator Statements

18 Under Fed. R. Evid. 801(d)(2)(E), "a statement by a coconspirator of a party during the  
 19 course of and in furtherance of the conspiracy" is not hearsay. To admit statements of a  
 20 coconspirator against a defendant, there must be evidence that (1) the declarant and the defendant  
 21 were members of a conspiracy; and (2) the statements were made during and in furtherance of the  
 22 conspiracy. Bourjaily v. United States, 483 U.S. 171, 175 (1987). Under Bourjaily, the  
 23 requirements of Rule 801(d)(2)(E) and the confrontation clause of the Sixth Amendment are  
 24 identical. 483 U.S. at 182-84. A coconspirator's statement is admissible upon proof that it was  
 25 made in furtherance of a conspiracy involving the defendant, whether or not that conspiracy is  
 26 charged in the indictment. United States v. Manning, 56 F.3d 1188, 1196-97 (9<sup>th</sup> Cir. 1995);  
 27 United States v. Snow, 521 F.2d 730, 736 (9<sup>th</sup> Cir. 1975) (explaining that "[t]he admissions and  
 28 statements of a co-conspirator are admissible even where there is no charge of conspiracy, as

1 long as there is independent evidence of a concert of action").

2 In determining whether a conspiracy exists, the court may consider the coconspirator's  
 3 statements themselves, but those statements alone do not conclusively establish the existence of  
 4 the conspiracy. United States v. Torres, 908 F.2d 1417, 1425 (9<sup>th</sup> Cir. 1990). To determine  
 5 whether evidence supports the existence of a conspiracy, the court considers facts such as the  
 6 nature of the scheme, the identity of the participants, the quality, frequency and duration of each  
 7 conspirator's transactions, and the commonality of time and goals. Id.

8 With respect to the second prong, the Ninth Circuit has held that "[m]ere conversations  
 9 among coconspirators, or merely narrative declarations among them, are not made 'in  
 10 furtherance' of a conspiracy." United States v. Yarborough, 852 F.2d 1522, 1535 (9<sup>th</sup> Cir. 1988).  
 11 Instead, "to be 'in furtherance' the statements must further the common objectives of the  
 12 conspiracy or set in motion transactions that are an integral part of the conspiracy." Id. When  
 13 determining whether a statement was made "in furtherance" of the conspiracy, courts "do not  
 14 focus on its actual effect in advancing the goals of the conspiracy, but on the declarant's intent in  
 15 making the statement." United States v. Zavala-Serra, 853 F.2d 1512, 1516 (9<sup>th</sup> Cir. 1988).

16 Each statement offered clearly show the the conspiracy goal of sextrafficking and the  
 17 defendant's knowledge that V.S. and other minors acting as prostitutes were in fact under 18. and  
 18 that these statements were made during the existence of the conspiracy which began in 2005 and  
 19 is alleged in the indictment as in existence in 2007.

20 The government believes that the statements are also admissible as statements against penal  
 21 interest. Federal Rule of Evidence 804(b)(3).

22  
 23 Dated: September 5, 2008

24 Respectfully submitted,

25 JOSEPH P. RUSSONIELLO  
 26 United States Attorney

27 \_\_\_\_\_ /s/  
 28 C. DAVID HALL  
 Assistant United States Attorney